

STATE OF NEW YORK

10852--B

IN ASSEMBLY

April 8, 2026

Introduced by M. of A. KELLES, SHIMSKY, GLICK, SIMON, STIRPE -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, the economic development law, the general municipal law and the environmental conservation law, in relation to enacting the "stop subsidizing data centers act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "stop subsidizing data centers act".

3 § 2. Section 2 of the public authorities law is amended by adding a
4 new subdivision 7 to read as follows:

5 7. "data center" shall mean all buildings, equipment, structures,
6 infrastructure within an existing structure, and other stationary items,
7 such as server racks, that are located on a single site or on contig-
8 uous, adjacent, or otherwise connected sites, and that are owned or
9 operated by the same entity or by any entity who controls, is controlled
10 by, or is under common control by such entity, regardless of whether the
11 data center is a single-occupant or multi-occupant site, that is capable
12 of using twenty megawatts of electricity or more and is designed or
13 intended to be primarily engaged in data processing, data storage, data
14 transport, web hosting, web streaming support, or other services
15 described under code 518210 of the two thousand twenty-two North Ameri-
16 can Industry Classification System.

17 § 3. Section 187 of the economic development law is amended by adding
18 a new subdivision (h) to read as follows:

19 (h) Notwithstanding any other provision of law, no application for
20 economic power allocation shall be approved under this section where
21 such allocation would be for the operation of a data center, as defined
22 by section two of the public authorities law.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 § 4. Paragraph (a) of subdivision 13-a of section 1005 of the public
2 authorities law, as added by section 3 of part CC of chapter 60 of the
3 laws of 2011, is amended to read as follows:

4 (a) Notwithstanding any other provision of law to the contrary, but
5 subject to the terms and conditions of federal energy regulatory commis-
6 sion licenses, to allocate, reallocate or extend, directly or by sale
7 for resale, up to nine hundred ten megawatts of recharge New York power
8 to eligible applicants located within the state of New York upon the
9 recommendation of the New York state economic development power allo-
10 cation board pursuant to section one hundred eighty-eight-a of the
11 economic development law; provided, however, that no such allocation
12 shall be approved where such allocation would be for the operation of a
13 data center.

14 § 5. The opening paragraph of paragraph (a) of subdivision 13 of
15 section 1005 of the public authorities law, as amended by chapter 645 of
16 the laws of 2006, is amended to read as follows:

17 Criteria for eligibility for expansion, replacement and preservation
18 power. Each application for an allocation for expansion, replacement or
19 preservation power shall be evaluated by the trustees under the criteria
20 [~~which~~] provided under this paragraph; provided, however, that no appli-
21 cation for allocation for expansion, replacement or preservation power
22 shall be approved where such allocation would be for the operation of a
23 data center. The criteria to be evaluated by the trustees for applica-
24 tions for allocation for expansion, replacement or preservation power
25 shall include but need not be limited to:

26 § 6. Section 874 of the general municipal law is amended by adding a
27 new subdivision 13 to read as follows:

28 (13) (a) Any agreement executed by an agency providing financial
29 assistance to a data center project shall include provisions requiring
30 the return of all or part of such financial assistance, including all or
31 part of the amount of any tax exemptions, where the recipient fails to
32 create or maintain the number of full-time jobs identified in the
33 project application or agreement within five years of project
34 completion. Such agreement shall provide for mandatory claw back of
35 financial assistance upon a material shortfall in job creation or
36 retention, as determined by the agency pursuant to written standards
37 adopted by such agency.

38 (b) Any recipient of financial assistance for a data center project
39 shall submit an annual certification of compliance with the applicable
40 job creation and retention requirements established pursuant to para-
41 graph (a) of this subdivision for a period of five years following
42 project completion.

43 (c) Financial assistance shall not be awarded for any data center
44 project in an amount exceeding twenty-five thousand dollars for each
45 full-time job anticipated to be created by such project, as indicated in
46 the project application.

47 (d) Financial assistance shall not be awarded for any data center
48 project that, upon completion, is capable of consuming more than twenty
49 megawatts during normal operations.

50 (e) For the purposes of this subdivision:

51 (i) the term "financial assistance" shall include, but not be limited
52 to, sales tax exemptions, mortgage recording tax exemptions, and real
53 property tax exemptions; and

54 (ii) the term "data center" shall have the same meaning as defined by
55 section two of the public authorities law.

1 § 7. Subdivision 6 of section 8-0111 of the environmental conservation
2 law, as added by chapter 612 of the laws of 1975, is amended to read as
3 follows:

4 6. Lead Agency. When an action is to be carried out or approved by two
5 or more agencies, the determination of whether the action may have a
6 significant effect on the environment shall be made by the lead agency
7 having principal responsibility for carrying out or approving such
8 action and such agency shall prepare, or cause to be prepared by
9 contract or otherwise, the environmental impact statement for the action
10 if such a statement is required by this article. In the event that there
11 is a question as to which is the lead agency, any agency may submit the
12 question to the commissioner and the commissioner shall designate the
13 lead agency, giving due consideration to the capacity of such agency to
14 fulfill adequately the requirements of this article. The department
15 shall be the mandatory lead agency for any action capable of consuming
16 over twenty megawatts during normal operations.

17 § 8. Section 8-0109 of the environmental conservation law is amended
18 by adding a new subdivision 10 to read as follows:

19 10. An environmental impact statement shall be prepared for any action
20 related to a data center that is found to be located within ten miles of
21 a federally recognized Indian nation's territory. Prior to the prepara-
22 tion of such environmental impact statement, the applicant shall consult
23 with such Indian nation, and include any comments submitted by such
24 Indian nation pursuant to such consultation in its environmental impact
25 statement.

26 § 9. This act shall take effect on the one hundred eightieth day after
27 it shall have become a law. Effective immediately, the addition, amend-
28 ment and/or repeal of any rule or regulation necessary for the implemen-
29 tation of this act on its effective date are authorized to be made and
30 completed on or before such effective date.